IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR No. 72 of 2006

Decided on : September 27, 2006

Sunil Sood and others **…..Petitioners.**

VERSUS

Bansi Lal **…..Respondent.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the petitioners **:** **Mr. B.K. Sood, Advocate, vice Mr. Ajay Kumar, Advocate.**

For the Respondent **:** **Mr. Jagdish Rajta, Advocate.**

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Revision Petitioners filed a petition, under Section 14 of the H.P. Urban Rent Control Act, for the ejectment of the respondent-tenant Bansi Lal form certain premises, situated in Shimla Town, on two grounds, namely (i) the respondent-tenant was in arrears of rent, and (ii) that the tenant was guilty of committing certain acts impairing the value and utility of the premises.

3. Rent Controller allowed the petition partly and ordered the ejectment of the respondent-tenant on the ground that he was in arrears of rent. As regards the second ground, the Rent Controller rejected the landlord's plea holding that the ground has not been established.

4. Appeal was filed by the landlord before the Appellate Authority, challenging the finding of the Rent Controller with regard to the ground that the tenant was guilty of certain acts, which had impaired the value and utility of the premises, and also the consequential order of

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Whether the reporters of the local papers may be allowed to see the Judgment?

dismissal of the petition on the said ground. Appellate Authority relied upon a judgment of this Court, i.e. ***Nand Kishore v Mohamad Idrish and others, 2003 Latest Himachal Law Judgment (HP) 77***, wherein it was held that when a landlord seeks ejectment of a tenant on more than one grounds and the ejectment is allowed on one or some grounds and disallowed on other grounds, the landlord cannot be said to be an aggrieved person and, hence, he does not have the right to appeal against the order of the Rent Controller so far as it pertains to rejection of some of the grounds for ejectment.

5. The aforesaid judgment of this Court was challenged in the Hon'ble Supreme Court vide Civil Appeal No.312 of 2004 (arising out of SLP (C) No.15549 of 2003, titled Nand Kishore Bansal versus Mohd. Idrish & Anr. The Hon'ble Supreme Court has reversed the judgment of this Court and held that where ejectment is ordered on one or some of several grounds pleaded by the landlord and disallowed on the rest of the grounds, the landlord would be an aggrieved party, because even though order of ejectment is there in his favour, yet that is a lesser order than the order actually sought by him and so he can file an appeal seeking the passing of the larger order as asked for by him in the petition.

6. In view of the abovestated position, revision petition is allowed. Impugned order of the Appellate Authority is set aside and the matter is remanded to the Appellate Authority with the direction to dispose of the same on merits, in accordance with law. Parties, through the counsel, are directed to appear before the Appellate Authority on 14th November, 2006.

September 27, 2006(sd) **(Surjit Singh), J.**